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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 698

RICHARD VAUGHN, DBA VAUGHN'S USED CARS,
Appellant,

vs.

THE BOARD OF POLICE COMMISSIONERS OF THE CITY OF LOS ANGELES, VAN M. GRIFFITH, E. N. MARTIN, ALFRED A. COHN, J. RAY FILES AND GENERAL PEGRAM WHITWORTH,

---

APPEAL FROM THE DISTRICT COURT OF APPEAL, SECOND APPELLATE DISTRICT OF THE STATE OF CALIFORNIA.

STATEMENT OPPOSING JURISDICTION.

RAY L. CHESEBRO,
FREDERICK VON SCHRADER,
EDWIN F. SHINN,
Counsel for Appellees.

INDEX.

Subject Index.

	Page
Satement opposing jurisdiction	1
There is no substantial federal question involved	1
Foreword	1
Conclusion	4

Table of Cases Cited.

Dohany v. *Rogers*, 281 U. S. 362	3
Hall v. *Geiger-Jones Co.*, 242 U. S. 539	2
Hardware Dealers Mutual Fire Ins. Co. v. *Glidden Co.*, 284 U. S. 151	3
Hooker v. *Los Angeles*, 188 U. S. 314	3
Lehman v. *State Board of Public Accountancy*, 263 U. S. 394	3
Miller v. *Strahl*, 239 U. S. 426	2
Missouri, ex rel. Hurwitz v. *North*, 271 U. S. 40	3
Simon v. *Craft*, 182 U. S. 427	3

Statute Cited.

Constitution of the United States, 14th Amendment	2

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No. 698

RICHARD VAUGHN, DBA VAUGHN'S USED CARS,
Petitioner and Appellant.

vs.

THE BOARD OF POLICE COMMISSIONERS OF THE CITY OF LOS ANGELES, VAN M. GRIFFITH, E. N. MARTIN, ALFRED A. COHN, J. RAY FILES AND GENERAL PEGRAM WHITWORTH,
Defendants and Respondents.

STATEMENT OF MATTER AND GROUNDS MAKING AGAINST THE JURISDICTION OF THE UNITED STATES SUPREME COURT.

The appellees respectfully submit a statement of matter and grounds making against the jurisdiction of the United States Supreme Court as follows:

There Is No Substantial Federal Question Involved.

Foreword.

Appellant's jurisdictional statement does not show that a substantial Federal question is presented by this appeal.

The issues upon which appellant seeks to invoke the jurisdiction of this Court are:

One, that the ordinance of the City of Los Angeles, under which his permit to engage in the used car business in the City of Los Angeles was revoked, is so uncertain and indefinite as to void under the due process clause, and

Two, that the procedure used for the purpose of ascertaining the facts upon which revocation of his permit was based is insufficient to give the notice and the opportunity to be heard required by the 14th Amendment to the United States Constitution.

These two issues are no longer open questions under the facts set forth in appellant's jurisdictional statement.

I.

The language used in the ordinance of the City of Los Angeles concerning which appellant complains, to wit: "conduct • • • business in an unlawful manner" is substantially more certain and more definite than the language in other provisions of law which this Court has previously held to be sufficient to meet the test of due process.

Miller v. *Strahl*, 239 U. S. 426;
Hall v. *Geiger-Jones Co.*, 242 U. S. 539.

II.

It has long been settled by decisions of this court that the 14th Amendment does not deny to the states the power to determine and to set up the procedure by which legal rights are to be ascertained and finally determined. All that is required by this provision of the United States Constitution is that the procedure established by the law of the state be of such character that the accused is given reason-

able notice and a fair opportunity to be heard, due regard being shown to the nature of the proceeding.

Simon v. *Craft*, 182 U. S. 427;
Hooker v. *Los Angeles*, 188 U. S. 314;
Missouri ex rel. Hurwitz v. *North*, 271 U. S. 40;
Dohany v. *Rogers*, 281 U. S. 362;
Hardware Dealers Mutual Fire Ins. Co. v. *Glidden Co.*, 284 U. S. 151.

In *Lehmann* v. *State Board of Public Accountancy*, 263 U. S. 394, an argument for invoking the jurisdiction of this court almost identical with that here advanced by the appellant was considered, and the court there said:

"By a statute of the state, a board denominated the Board of Public Accountancy was created. The board has authority to examine applicants for certificate or licenses to practice the business or calling of public accountant, and to issue certificates to those whom the board deems qualified.

"The board is given power to cancel the certificate granted 'for any unprofessional conduct of the holder of such certificate, or for other sufficient cause'" . . .

. . . . . .

"The unconstitutionality of the act is averred both under the state and Federal Constitutions.

"The contention that the statute and the powers it confers upon the board and the manner of their exercise are in derogation of the Constitution of the state is decisively decided against by the opinion of the supreme court of the state, and we may say that there is persuasion in the reasoning of the court against the contention that the statute is in conflict with the Constitution of the United States. That is, that the statute is in effect an ex post facto law, or, if en-

forced against him, will deprive him of his property without due process of law."

* * * * * * *

"Plaintiff in error puts some stress upon the absence of rules by the board, urging that the statute is in conflict with the Constitution of the United States because it purports to authorize the revocation of a certificate 'without defining or determining in advance what grounds or facts or acts shall be sufficient cause for such revocation.' Such absence permits, it is asserted, arbitrary action. We cannot yield to that assertion or assume that the board will be impelled to action by other than a sense of duty, or render judgment except upon convincing evidence introduced in a regular way, with opportunity of rebuttal."

Conclusion.

The record herein shows clearly that not only did appellant receive reasonable notice, but also that he had a "full opportunity to present all of his evidence," page 16, Jurisdictional Statement, Exhibit "A".

Appellees respectfully submit that under the above decisions of this court, appellant does not show a sufficient or a substantial Federal question to support his appeal.

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